

THE MARTHA'S VINEYARD COMMISSION

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Martha's Vineyard Commission Minutes for the Special Meeting of September 5, 2002

The Martha's Vineyard Commission (the MVC or the Commission) held a Special Meeting on Thursday, September 5, 2002, at 6:30 p.m. in the cafeteria of the Martha's Vineyard Regional High School, Edgartown-Vineyard Haven Road, Oak Bluffs, Mass.

At 6:40 p.m., a quorum being present, Richard J. Toole – a Commission member at large from Oak Bluffs, the Chairman of the Land Use Planning Committee and the Hearing Officer that evening – called the Special Meeting to order to begin that evening's Public Hearing.

[Commission members present at the gavel were: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; T. Israel; C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole; J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.]

Continued Public Hearing, Session Two: Down Island Golf Club Three (DRI #556).

Mr. Toole read into the record the Notice of Continued Public Hearing for the Down Island Golf Club Three Development of Regional Impact (DRI No. 556). *[See the Full Commission Meeting File of September 5, 2002 (the meeting file) for a copy of the notice.]* He outlined the Hearing procedure, noting that the Applicant had requested a few minutes at the start of the Hearing session to answer a few questions raised in the session the evening before. This, he said, would be followed by Staff Reports, questions and comments from Commission members and then testimony from members of the public. Lastly, the Applicant would sum up at the end of the session.

The Applicant Addresses Issues Raised in the September 4, 2002 Hearing Session.

Brian Lafferty, an agent for the Applicant, clarified that the Development of Regional Impact submission before them was separate and distinct from the proposal outlined in the Settlement Agreement with the Town of Oak Bluffs. Where contradictions between the two arose in the Commission's final Decision, he said, those matters would be addressed, and the appropriate amendments would be made to the Settlement Agreement.

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Regarding the \$10 million environmental insurance policy, Mr. Lafferty reported that the inconsistency between the DRI submission and the Settlement Agreement had been addressed. As for the issue of rental versus homeownership with regard to the affordable units, he said, the Settlement Agreement had been amended to represent rental units as opposed to homeownership.

"Also on the subject of the [Chapter] 40B," continued Mr. Lafferty, "I'm going to back away a little bit from our contention that that project, as it sits, will absolutely meet Oak Bluffs' statutory minimum. There was a recent decision by the Housing Appeals Committee that's somewhat inconsistent with – I view it as inconsistent with – the HCD's policy statement on the land area minimum ... so I don't want to unequivocally say it will meet the minimum ..."

"The agreement is also being amended with respect to the non-primary residences, language that we discussed last night," said Mr. Lafferty, who explained that the original language "did not exactly do what our intent was... [T]he intent was that nine of those homes will not have children that attend the Oak Bluffs school system. So the agreement is going to be amended to reflect different language on that."

Moving on to the subject of Island memberships, Mr. Lafferty related that in its original form the Settlement Agreement gave the Oak Bluffs Selectmen some authority to designate those memberships, "and our proposal to the Commission is that the Island memberships are by lottery."

Mr. Lafferty turned to the Commission's waiver of the traffic study requirement, with the Applicant offering instead to donate \$25,000 to the Town for its improvements at the blinker intersection. "I'm going to suggest," he said, "that rather than twenty-five thousand [dollars] towards construction of the improvements that we provide that money *earlier* because the first step, I guess, for Oak Bluffs to improve that [blinker intersection] will be the design phase... So we would be willing to put that money toward the design phase, which gets them up to speed a lot quicker and makes the money more valuable for them."

Lastly was the question about the Windfarm Golf Practice Facility property and how it related to other conservation properties, said Mr. Lafferty, and he would let **Lawrence J. DuCharme, a principal with the firm of DuCharme & Wheeler, civil environmental land surveyors**, answer that.

Using a site plan to illustrate his points, Mr. DuCharme pointed to the Windfarm property on Edgartown-Vineyard Road as well as to the blinker intersection and to the Land Bank land that was directly adjacent to the east of the Windfarm property and came down and abutted Barnes Road right where Old Holmes Hole Road came across.

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Mr. DuCharme showed how at that point the last property connected to another Land Bank property. "So we do have a contiguous Land Bank property to the Wind[farm] property, and it also does have a connection, especially with the trail, to other Land Bank property," concluded Mr. DuCharme.

"What would be the total number of acres?" inquired Megan Ottens-Sargent, the Aquinnah Selectmen's Appointee. The Windfarm property was 9.2 acres, replied Mr. DuCharme. Parcel C – which the Land Bank, he said, intended to purchase – was 32.5 acres, and the land currently owned by the Land Bank, between the Windfarm facility and Barnes Road, was 26.4 acres.

"And the other one would be Featherstone?" asked Ms. Ottens-Sargent. Mr. DuCharme pointed to the Featherstone Center for the Arts property on Barnes Road.

Statement by Commission Member Kate Warner.

Before the session continued, Mr. Toole announced, West Tisbury Selectmen's Appointee Kate Warner had a statement to read. Ms. Warner explained that her statement was basically a request of the Applicant and had been arrived at after a number of people, including some who were generally in favor of golf, had approached her.

Ms. Warner stated that although the latest Down Island Golf Club Application had been done with care, the intensity of the use of the Southern Woodlands was greater in this proposal than in the previous one (DRI #543). In addition to the 18 holes were the houses – not only 16 affordable units but also 14 market-rate units spread around the course. Moreover, the inclusion of the Windfarm property meant less conservation land on the Southern Woodlands site, she said, which at present was basically untouched.

What she feared, Ms. Warner continued, was that the most important factor to the leaders of Oak Bluffs was the economic assistance being offered by the Applicant. "And my question for the Applicant, given that sort of benefit to the Town of Oak Bluffs," said Ms. Warner, "[is that] an important consideration that has yet to be discussed is the economic demonstration of the need for this course Island-wide." For instance, she had heard from a number and variety of sources that the newly opened Vineyard Golf Club in Edgartown had not reached full membership yet.

Ms. Warner went on: "It's possible that they [the Vineyard Golf Club partners] still need at least 50 more members at \$250,000 or more per membership," she said. "I've heard that Vineyard Golf is often empty and that the clubhouse and restaurant are also often empty. I've heard that the Vineyard Golf course is difficult to play, in part due to the grass types that are used there. We've all heard from numerous people that enthusiasm for playing golf, particularly more strenuous 18-hole golf, is down."

"If this new course is approved, it is possible that Vineyard Golf will never fill its memberships and it is also possible that Down Island Golf won't be able to fill *its*

memberships," Ms. Warner read. A pricing war could result, she noted, with a possible consequence being that neither club could fulfill its financial obligations.

Ms. Warner reminded the members of the Peaked Hill subdivision project, which "went belly-up," but not before the land had been devastated. Thus, Edgartown could wind up with an "altered and bankrupt" piece of property on their hands, as could Oak Bluffs, whose leaders would lose the economic benefit that they viewed as such an important aspect of the proposal.

"I therefore ask the Applicant to demonstrate the need to the Island as a whole for this course," Ms. Warner concluded. (Applause) The time was 6:53 p.m.

Staff Reports.

DRI Coordinator Jennifer Rand explained that her Staff Notes had concentrated on the differences between the present Application and the preceding one. Foremost among the changes was the housing element, she said. In addition, she had requested that the Applicant list specifically what offers were still on the table.

Other changes worth noting, said Ms. Rand, were the drop in the number of Island memberships to 150 and the access to the Town Parcel, which in this Application was not for residential use. Lastly, she had suggested to the Applicant that a time limit be set on the payment in lieu of taxes, which the latter had done.

Linda Sibley, a Commissioner at large from West Tisbury, asked if the Applicant had specified what the access to the Town Parcel was for. "No, the specification says, 'Not for residential use.' That's why I felt it was worth noting," answered Ms. Rand.

"So it isn't clear whether it can be accessed for passive recreation, like walking around?" inquired Ms. Sibley. Ms. Rand replied that this was best answered by the Applicant, although what was certain was that the Applicant was not opening it up for the Town's Resident Homesite Committee to build houses on. Mr. Lafferty confirmed that a person could walk in to the Town Parcel.

Was the wastewater issue basically unchanged? wondered John Best, a Commission member at large from Tisbury. No, that was a question for Water Resources Planner William Wilcox, responded Ms. Rand.

Christina Brown, a Commissioner at large from Edgartown, noted that she did not see on the list of Applicant offers the Conservation Restriction that had been offered in the previous Application. "I don't have a good answer for you," said Ms. Rand. "I haven't looked into that again in detail. I will." "It's something the Applicant may want to tell us [about] in more detail," remarked Ms. Brown.

Tisbury Selectmen's Appointee Tristan Israel asked the Hearing Officer whether, in view of the waiving of the traffic study requirement, he would still be permitted to pose questions to the Applicant about traffic. "The answer is yes, absolutely," said Mr. Toole.

Water Resources Planner William Wilcox referred the members to a document titled "Summary of Facts and Figures: DIGC DRI 556," which, he said, he would be using as an outline. *[See the meeting file for a copy. This will be referred to hereinafter as the summary document.]* He pointed to the caveat at the top of page 1 which emphasized that the notes were a draft, since there had been some recent changes to documents provided by the Applicant and time for their review had been limited.

As far as water resources were concerned, continued Mr. Wilcox, what the Commission was most interested in were the two coastal ponds to which the golf course site would contribute groundwater – Lagoon Pond and Sengekontacket Pond. He pointed to the blue line on the site plan demarcating the groundwater divide, which, he stressed, was an approximation. The measure of the Lagoon watershed area contained on the property was about 137 acres, he said, and the area of the property in the Sengekontacket watershed was around 136 acres.

With a total acreage of 273 acres, Mr. Wilcox went on, about 71 acres would be managed turf, "and we're estimating that the total area that would be disturbed to create the golf course and the buildings and the houses would be somewhere, probably less than 120 acres, maybe between 110 and 120 acres."

The water table in this area ranged in depth from 60 to 100 feet below the ground surface, he said, and the groundwater flow would fan out and enter the Lagoon on the west side of the groundwater divide. "And as you get closer and closer to the divide," he explained, "the flow is a little more north-south instead of having the curvature to the west."

On the east side of the groundwater divide, Mr. Wilcox related, the groundwater flow would be off generally towards Sengekontacket Pond. "There *is* some middle ground in here," he pointed out, "where the groundwater is probably flowing neither toward the Lagoon nor towards Sengekontacket. It's probably going out into possibly Farm Pond or Nantucket Sound, possibly Oak Bluffs Harbor. We don't really know the nature of the water table in enough detail to figure that out."

Thus, in order to be conservative, Mr. Wilcox reported, the groundwater flow had been posited to be flowing either into the Lagoon or into Sengekontacket Pond. "There's no middle ground in the assumptions that we're following," he stated.

Groundwater flow was somewhere between three-quarters of a foot and a foot and a half per day, Mr. Wilcox continued. "So we're only talking about 500 feet a year maximum flow rate. It will take *years* for whatever nitrogen reach[ing] the groundwater associated with this project to enter either the Lagoon or Sengekontacket."

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The site soils were Carver loamy coarse sands, said Mr. Wilcox, which was "not a prime agricultural soil. It's a very sandy soil with very little silt, and because of that, it has rapid percolation, meaning that it's capable of absorbing a large amount of water and passing that through the soil into the groundwater."

The geology on the site was outwash sands and gravels, Mr. Wilcox explained, and at one time it was thought to be outwash plain. Now, though, it was believed to be what was called a collapsed head outwash, which meant that the sand and gravel were deposited up on top of a stagnant glacial ice, which later melted, with the soil then collapsing and creating hollows. This type of deposit was associated with a lot of internal drainage on the site, he said, which meant that rather than exit from the site, the runoff tended to drain into the hollows and infiltrate the ground at those locations.

Mr. Wilcox related that in the previous Application, the potable water use had been approximated at 20,000 to 25,000 gallons per day. "That might have been a little on the high side," he remarked. "With the houses [added], we're estimating about 27,000 gallons per day for drinking water."

"For irrigation, I'm showing a figure of 180,000 gallons on average for irrigating the turf," Mr. Wilcox went on. "I'm told that that figure should be 120,000 gallons per day. I'm still checking that one out. That would be an *average*, so that means that during dry spells like we had in July and August here, they'd be pumping two or maybe three times that in order to irrigate the turf." The average was over 240 days, he noted, or roughly eight months.

The maximum daily withdrawal request for the original proposal had been 470,000 gallons, reported Mr. Wilcox. "Now I believe that was before there was an intent to use the ponds in the irrigation program, and it may be that that maximum per-day withdrawal could be cut down somewhat by using the ponds as a backup for time periods when things are dry and they need more water on a regular basis."

Regarding the water use impact related to irrigating the turf, Mr. Wilcox tried to create some perspective. This site was a part of an outwash aquifer, he said, that included most of Edgartown, West Tisbury up along State Road, a good deal of Vineyard Haven (particularly east of Tashmoo), and pretty much all of Oak Bluffs – about 29,600 acres altogether. His estimate was that there was about 145 billion gallons of water contained in the aquifer.

Each year about 17 billion to 18 billion gallons recharged the aquifer, related Mr. Wilcox, and on average, over time, roughly a similar amount discharged into the ocean. "So that the aquifer's in sort of a dynamic equilibrium," he explained. "In some years we have less recharge and the aquifer begins to drop, and other years we have more recharge and it pops back up again."

Based on measurements taken from the State Forest well, Mr. Wilcox noted, the water levels were at a 23-year low. (The level in August was about 12.9 feet elevation, about 2.5 feet below the historical average.) Prior to this August, the low for that month had been 13.5 feet.

Mr. Wilcox estimated that on an annual basis the Island was using about 2 billion gallons from that aquifer for drinking water, "and a good deal of that goes back into the aquifer from the septic systems and sewage treatment plants." The impact of pumping had to do with the water level right around the well dropping, he remarked. "And what happens," he said, "is that as the well pumps, a cone of depression develops and the aquifer is lowered, mostly right near the well and to a lesser amount as you get further and further away from the well, and this creates a head difference, which basically ..." Mr. Wilcox stopped mid-sentence, then said, "Water like everything else flows under the influence of gravity downhill."

Mr. Wilcox continued: "So by drawing down the water at a well, you create a head that causes the groundwater around it to flow into that low spot and supply the well. This is called drawdown, and the amount of drawdown is dependent on the characteristics of the aquifer. Sands and gravels will draw down to a lesser extent than finer, siltier soils."

"So ... what would be expected to happen [would be] if an irrigation well was to pump at two hundred or four hundred thousand gallons a day for extended periods of time – and in the previous go-round models were created which showed point four feet of drawdown at the Lagoon Pond well field under maximum pump rate – that would be the 470,000 gallons per day continued for a fairly long period of time." *[See page 12 of these Minutes for a more detailed explanation of what is meant by the 0.4-foot threshold.]*

"A slightly different model, which I believe is a 3-D model," Mr. Wilcox went on, "shows that drawdown to be about point twenty-two feet. So somewhere in that range seems to make sense. At the maximum pump rate for six months with no recharge occurring whatsoever, the model shows a drawdown of point six feet."

"The turf areas that are situated in each of the watersheds have changed somewhat since the last go-round," Mr. Wilcox noted. "At this point roughly two-thirds is in the Sengekontacket Pond watershed, and about one-third is in the Lagoon Pond watershed. Those translate to 47.1 acres in Sengekontacket and 23.9 in the Lagoon." He pointed to the summary document, where he had broken down the managed turf areas into the different grass types and the approximate acreage of each.

Mr. Wilcox then described the different types of nitrogen that would be applied at different points in the growth cycles of the different grass types. According to the latest submission, the total nitrogen applied on the entire golf course would be a little over 10,000 pounds on an annual basis. A little more than one-third of that would be applied in the Lagoon watershed and a little less than two-thirds of it in the Sengekontacket Pond

watershed. He was assuming, he said, a leaching rate of "just a little under 10 percent on an annual basis."

At this point, Mr. Wilcox reported, there was no plan to use the wastewater to spray-irrigate the practice range, as had been proposed in the previous submission. So, as Mr. DuCharme had testified, the effluent would be piped over to the Sengekontacket watershed and leached into the ground at that location. *[See Mr. DuCharme's testimony on pages 13-14 of the Full Commission Meeting Minutes of September 4, 2002.]*

Turning to page 2 of the summary document, Mr. Wilcox pointed to where he had laid out the estimated nitrogen loading to the two ponds based on the Applicant's figures. "And I've tried to tweak them a little bit to get a worst-case number so that we can see what a range of possibilities might be," he commented. The primary source of nitrogen loading to the Lagoon would be fertilizer for the turf, he said, although there would be some as well associated with stormwater runoff. The total loading from that source would be around 467.3 pounds.

Mr. Wilcox stated that the proposed offset program for the Island Elderly Housing units would result in an offset of nitrogen loading to the Lagoon amounting to 714 to 996 pounds, which was greater than the 467.3 pounds generated by the golf course. Both he and the Applicant's consultants agreed that the effect on the Lagoon would be a net reduction in nitrogen loading.

As for the Sengekontacket side of the equation, the nitrogen loading from the site would be greater because there was more turf in the Sengekontacket watershed and because of the transfer of the effluent from the treatment plant to that watershed. The Applicant's estimate was 932.3 pounds, and a worst-case-scenario number was 1,240.4 pounds, which included the wastewater flows from upgraded offsite sources (Island Elderly Housing and the Martha's Vineyard Arena). The proposed offset of nitrogen to the Sengekontacket watershed from the offsite upgrades would be 64 to 72 pounds.

The Lagoon watershed as a whole, said Mr. Wilcox, was nearly 4,000 acres in size, and currently it was estimated that the present load was pretty much at the acceptable limit. The Sengekontacket watershed was susceptible to nitrogen, "but it's a very well flushed pond," he explained, "and so the impacts are not as severe as they would be in more poorly flushed ponds like the Lagoon."

As for pesticide use, Mr. Wilcox referred to the list of biologicals submitted by the Applicant in a memorandum dated February 11, 2000, which included fungi, bacteria, nematodes, corn gluten and spinosad. Most of these are clearly organic, he noted, while some were synthetic versions of naturally occurring organic materials. A more recent memorandum from the Applicant, dated August 29, 2002, suggested adding a product called Heritage, which, he said, fell into that class, being a manufactured version of a mushroom secretion that affected fungi that caused disease problems in turf.

"I think the fungicide I have less concern about, because it's going to be focus-used on the course and I think the offsite impacts are going to be minimal associated with Heritage," remarked Mr. Wilcox, who added, "There are some synthetic versions of insect growth regulators that I'm a little more concerned about in insect control."

The summary document also concluded a list of the fertilizers that had been proposed by the Applicant in the 1999 submission (DRI #515) and had been carried over to the latest submission. "And you can see that some of them are clearly organic," said Mr. Wilcox. "For instance, the starter fertilizer has 10 percent nitrogen, 29 percent of that water-insoluble. Probably part of that's organic. I don't believe it all is. Ammonium sulfate I don't think is considered to be an organic material. It's a manufactured source of nitrogen."

Mr. Wilcox continued down the list: "IBDU is a slow-release source of nitrogen. It's all water-insoluble, but it's synthetic. Coron is pretty much a similar kind of thing. I believe it's a slow-release source, but it's synthetic. And then the organic fertilizer is pretty much meets most people's definition of organic."

In the past, Mr. Wilcox pointed out, he had concentrated on performance standards oriented toward the amount of groundwater drawdown, the quantity of nitrogen loading, and the monitoring of vegetative plantings and bird population changes. Listed in the summary document, he said, were some of the standards for the lysimeters on the various turf types.

"And I think it's critical that there be an accepted and thoroughly thought-out plan before course construction for monitoring all these impacts," Mr. Wilcox stressed. "It's a very difficult thing to monitor and to take that data and extrapolate it into an interpretation about nitrogen loading, for instance... We need to develop the methodology, the sampling methods and how things will be interpreted and what kind of response will come from the management of the turf program if we find problems." He provided an example of a condition involving groundwater drawdown, then asked for questions.

Chilmark Selectmen's Appointee Jane A. Greene thanked Mr. Wilcox for his report. Regarding the 0.4-foot drawdown he had referred to, Ms. Greene wanted to know if the ponds onsite would be affected by a severe dry period. "These ponds are lined," replied Mr. Wilcox, "so they're not water table ponds. They certainly would undergo evaporation, undoubtedly, and ... their water level would be maintained through pumping the irrigation wells and creating the pond."

Mr. Wilcox explained how the ponds onsite were designed as a kind of backup, and if the ponds were low, the irrigation wells might be used directly to irrigate the turf. "I don't have a lot of detail on exactly how that would work," he said.

Was there some reason the Applicant would not want to use the graywater for irrigation? inquired Ms. Greene. Mr. Wilcox responded, "I think the reasons are it has to be diluted

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to about 25 percent with about three parts freshwater – irrigation water, the groundwater – and I think the reason for that is the tendency of the nozzles to clog in the irrigation system.”

Mr. Wilcox continued: “One of the drawbacks to it also is that you’ve got the wastewater every day, whether you want it or not, you’ve got to put it out on the course, and unless you’ve got a really large storage area ...” His voice trailed off. Then he added that if there were rainy periods and you had to keep irrigating to get rid of the wastewater, disease problems could result.

Ms. Sibley said, “At one point you used the phrase ‘some of these products I’m a little more concerned about ...’ And I would like to know what the concerns are.” “The concerns are not with the list of pesticides that we’ve got here,” replied Mr. Wilcox.

He explained: “I was trying to draw an analogy between Heritage, which is a synthetic version of a mushroom secretion which is used to control disease, and there’s a synthetic insect growth regulator that mimics a naturally occurring hormone. I would be more concerned with that type of product because the hormone products, I’m not so sure they’re really selective. I think if they’re meant to control the growth of one particular beetle, they might very well affect the growth of other beetles that are desirable parts of the ecosystem.”

“So you would be concerned about them even if they weren’t synthetic?” asked Ms. Sibley. “With that kind of product, I would be, yes,” answered Mr. Wilcox.

“So in general do you think the synthetic versus organic is the biggest issue or is the issue the mechanisms, regardless of whether they’re synthetic or organic?” wondered Ms. Sibley. Mr. Wilcox responded, “I think many of these chemicals function as if they were organic, and in some cases the synthetic versions will have a carrier product that may be a petroleum distillate-type product, and so when you get into the synthetics, you sometimes get things of that sort that you don’t really, can’t consider organic.”

“But you’re not suggesting that organic is not necessarily safe,” Ms. Sibley wanted to know. “I think in terms of organic pesticides,” replied Mr. Wilcox, “a good example is rotenone. It’s a naturally occurring insecticide they use to kill fish in ponds ... In that analogy, it’s not particularly safe just because it’s organic.”

Ms. Sibley had another question: Was it reasonable to assume, given the similarities among the three Down Island Golf Club Applications, that the Commission would pick up where it had left off in its review of water issues and in writing any Conditions they would formulate regarding them? “Yes, I think the products are virtually all the same, and in terms of all the fertilizers and the pest-control products,” replied Mr. Wilcox, “so in that sense we can pick up where we left off.”

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Responding to another query from Ms. Sibley, Mr. Wilcox indicated that Meeting Minutes from the earlier Applications existed and that these could be consulted while working on Conditions during this round.

Mr. Israel referred to the fact that under the new plan a greater nitrogen flow would be headed towards Sengekontacket Pond. Although he understood that as a body it flushed better than the Lagoon, there were in fact coves on Sengekontacket that did not necessarily flush as well as the body as a whole. Would it be an accurate assessment to say that there could be some concern with heavier loading in those areas? he wanted to know.

"Yes, I think generally that's probably the case," replied Mr. Wilcox. "When the two Towns were looking at a treatment facility, a regional one off the area, I think it was determined by ... Whitman & Howard ... and also Arthur Gaines, who was working on it for the Friends [of Sengekontacket], and the general consensus was that the wastewater effluent would hit the groundwater, would enter Sengekontacket Pond just about at the mouth of Majors Cove. It would have hit the head of the cove. That was the way I recall it."

With the project before them, Mr. Wilcox continued, he believed the nitrogen would reach Sengekontacket, maybe in the groundwater discharge area a little farther to the north. "So the impact would be far less than if it entered the head of Majors Cove," he said. "But, yes, the general answer to your question is, yes, if it was swept into Majors Cove at flood tide, it's apt to have a little more impact on that cove than it would if it just entered the outer part of the pond, where it flushes on a daily basis."

Mr. Israel turned to the subject of the project's effect on wildlife. The Applicant had indicated, he said, that the Imperial Moth habitat would not be impacted as much as it would have been under the earlier plans. Was the overall wildlife assessment any different? he wondered. And secondly, in applying the fertilizers and 'cides, would there be any risk of drift, and were there ways to mitigate that?

"I don't think there's anything new submitted in terms of wildlife, so I assume that the information that we have is as it was before," responded Mr. Wilcox. "And the answer to the second question is, yes, there are pieces of equipment that can apply whatever the pesticide is in ... low volumes ..." He described methods used to keep the pesticides down on the turf, thereby preventing drift.

Should the Commission be considering writing a Condition requiring these methods? asked Mr. Israel. "I think if we were looking at a synthetic pesticide program, I would say, yes, definitely," replied Mr. Wilcox. "With many of these fungi, bacteria, nematodes, those types of products, I don't think that's necessary. The Heritage, I think, would probably be applied on, well, maybe you'd call it more than a spot treatment, but at the Vineyard Golf Club it was applied to, I think, two and a half acres of greens, not last

spring, but the spring before, to control a disease, and it's a relatively limited area that would be treated."

Mr. Israel had a final question: Had there been a trend over, say, the last 10 or 15 years, affecting the rate of recharge to the aquifer and should the amount of drawdown allowed be adjusted to reflect that? "I don't think we have a long-enough record from the State Forest [observation well] to come up with some sort of definitive statement about changes in recharge that might relate to climate," answered Mr. Wilcox. "There *have* been periods in the past when the water table performed similar to what it's been doing this year, where it kind of got down pretty low in the spring and never really kicked up very high, the summer got real dry and in the fall it dropped way off.

Mr. Wilcox continued, "And I think that's happened a couple of times over the 23-year period. This year it's a little bit lower than those previous years, so I don't think I can stretch it and say that there seems to be some sort of climate change effect ... that would be changing the recharge ... I don't have enough information."

Andrew Woodruff, a Commissioner at large from West Tisbury, wanted to know if in light of the fact there had been no rain in 10 weeks, did Mr. Wilcox have any idea of the size of the resultant reduction in the water table. "I might have to dig that number up for you," said Mr. Wilcox. "I know I figured out before how many gallons it would take to put an inch of water on the course. I'd have to run those numbers again."

Mr. Wilcox added that at the least the course would need an inch to an inch and a half of water per week to compensate for those 10 weeks without rain. Since a foot of water on an acre was about 325,000 gallons, one would multiply that by approximately 70 acres, he explained. "That quite a chunk of water," he added.

Michael Donaroma, the Edgartown Selectmen's Appointee, wanted to know how close the drawdown had come to the 0.4-foot threshold this year. "The point four would be in excess of the natural drop of the water table that we'd see in the State Forest well," answered Mr. Wilcox.

He explained further: If the State Forest observation well declined due to a natural deficit in recharge, say, from 13 feet to 12.5 feet, that would be a 0.5-foot drop. So if the well over *on the course* dropped from 13 feet to 12.4 feet, that would be acceptable, since it would be just one-tenth more than at the State Forest well. But if it dropped to 12.1 feet, that would be four-tenths less than at the State Forest well, and some sort of steps would have to be taken to adjust the irrigation program.

Mr. Donaroma confirmed with Mr. Wilcox that the 0.4-foot threshold was a conservative number. Mr. Wilcox pointed out that if the Applicant's model was in error, this would be known soon enough, since the 0.4-foot threshold would be hit more often than would be desirable. "And at that point, there'll have to be something done to change the management ...," he concluded.

Ms. Ottens-Sargent had a number of questions: what were the areas where the environmental performance standards should be elaborated on; where specifically were there stands of pitch on the site; could any of the pesticides proposed harm the Imperial moth; and could the new element of housing in the plan result in the attraction of moths to the resulting increase in lighting.

Mr. Wilcox said that he would have to get back to her on the last two queries. Although his knowledge of the Imperial moth was limited, he *did* know, he said, that lighting could disrupt the mating cycles of moths. In addition, there was still some question about whether there was a viable population of Imperial moths on the site. "And figuring out how to monitor something that is almost nonexistent could be really challenging," he added.

Responding to Ms. Ottens-Sargent's second question, Mr. Wilcox noted that the largest pitch pine stands were not in an area that would be disrupted. He was pretty sure, he said, that the file contained a vegetative map showing that. (DRI Coordinator Rand looked for that map.)

As for the request for elaboration of the environmental performance standards, Mr. Wilcox stated that the most salient need was in the area of nitrogen impacts. The Applicant, he said, wanted to use monitoring wells, and he himself recommended caution in depending upon interpretations from monitoring wells to determine nitrogen loading.

Mr. Wilcox explained: "And the reason is, the depth of the screen on the wells intercepts the water that recharges from a certain portion of the land upstream. And if the well screen happens to be too deep, over here you may be sampling groundwater that's coming off, I don't know, the playing fields here at the high school instead of the golf course. And if it's too shallow, you may be sampling the conservation area rather than the turf area."

Mr. Wilcox concluded: "That's why I like the lysimeters better. They have their flaws, but at least you know they're sampling what's right above them, and that's turf." He added that he was not sure how reasonable it was to put elaborate environmental performance standards in at this point in the process. "They need to be in place before construction, certainly," he said.

James Athearn, a Commissioner at large from Edgartown, confirmed with Mr. Wilcox that his nitrogen-loading figures took into account the housing that had been added to the project since the previous submission. He requested that Mr. Wilcox comment generally on how the addition of housing had changed the environmental implications of the golf course.

As far as the Lagoon and nitrogen loading were concerned, the housing would have no effect in the long term, answered Mr. Wilcox, because the effluent was being taken from

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that watershed and treated and disposed of in the Sengekontacket Pond watershed. Some additional clearing would occur, "and clearing natural sites does release some store of natural organic nitrogen, if you will, that's in the roots," he said. But that release, he added, would be small in comparison to the release from the construction of the golf course holes situated in that part of the watershed.

Replying to another question from Mr. Athearn, Mr. Wilcox related that the lawns associated with the housing would be limited to 5,000 square feet for each unit. Furthermore, under the condominium bylaws, those lawns would probably be managed by the same parties who managed the golf course turf and with the same products. So it would be reasonable to assume that the leaching rates for the lawns would be similar to those for the golf course. He added that those numbers were included in the nitrogen-loading calculations.

Alan Schweikert, the Oak Bluffs Selectmen's Appointee, inquired whether the wastewater generated from a possible campsite on the proposed DEM land would be treated by the golf course's facility. Mr. Wilcox replied that it would be best for that effluent to go into the Down Island Golf Club's treatment plant and then be dispersed into the Sengekontacket Pond watershed. The fallback to that plan, he noted, could be the installation of composting toilets at the campground. "I think either one would work pretty well," he remarked, although he thought, he said, that the former option was probably the better one.

Mr. Schweikert also wanted to know if the assertion the evening before by Kelly Cardoza, a member of the Applicant's team, that there would be a net reduction in the nitrogen loading to the Lagoon Pond watershed was correct. *[See pages 13-15 of the Full Commission Meeting Minutes of September 4, 2002.]* Mr. Wilcox answered that this was true because of the offset programs involving the Woodside Village complex.

Mr. Wilcox explained: Six thousand gallons per day containing an average nitrogen concentration of 35 to 50 milligrams per liter were currently being put into the groundwater from the complex. After treatment of that wastewater at the golf course's facility, that concentration would be reduced to 3.0 milligrams per liter, which would amount to a substantial reduction in nitrogen loading over the course of a year.

What about the net impact on the Sengekontacket watershed? asked Mr. Schweikert. Mr. Wilcox answered that in that watershed, "the numbers are not as benign, let's say. There's more nitrogen, somewhere around a thousand pounds going into the watershed every year. And I think that might be a good area to focus on with the \$75,000-a-year-for three-years upgrade program. I think that ought to be devoted to the Sengekontacket side of the watershed."

"You mean upgrade the septic systems on the pond?" inquired Mr. Schweikert. "Exactly," replied Mr. Wilcox, who added that he thought that the Ocean Heights

neighborhood in Edgartown was a prime candidate for those upgrades, particularly the fairly dense developments of small houses right on the shore.

Responding to another question from Mr. Schweikert, Mr. Wilcox related that the two Woodside Village structures just approved by the Commission (DRI #553 and DRI #554) and an additional 15 units coming from Woodside Village VI would be included. So a total of 101 units would be treated by the golf course's facility.

Mr. Schweikert clarified with Mr. Wilcox that if the golf course project were not approved, that would mean an increase in the amount of nitrogen loading to the Lagoon watershed as the Woodside Village complex continued to expand. Mr. Wilcox noted that this was true, although the recent Approvals had been conditioned to require Island Elderly Housing to install advanced denitrification equipment.

Transportation Planner David Wessling explained that the Land Use Planning Committee had requested that he and the Applicant look at the Level of Service changes that would result from the current plan. The changes were twofold, he said. The first was the introduction of the housing units, and the second was the closing of the Windfarm Golf Practice Facility. His conclusion had been that "there would be a negligible net change at the blinker intersection, and there would be also a negligible change in the Level of Service at the driveway to the site from Barnes Road and from the Vineyard Haven-Edgartown Road."

Mr. Wessling referred the Commission members to his memorandum to the file dated August 29, 2002 on the Down Island Golf Club Application (the Staff Notes). *[See the meeting file for a copy.]*

Mr. Israel confirmed with Mr. Wessling that his testimony was that the construction of 30 homes would have a negligible impact on the Edgartown-Vineyard Haven Road access intersection at the Martha's Vineyard Arena. Mr. Israel then wanted to know if he could see actual trip generations and so forth, "because I was under the impression when we did a traffic study here that every family generates – and you can correct me if I'm wrong – the average family that moves to the Island generates 5,000 trip generations per year."

Mr. Wessling walked Mr. Israel through the former's thought process. First, he said, the owner of the Windfarm facility had told him that his business generated about 40 trips during the peak hour of four to five and another 40 trips to and from the site on Saturday morning from 11 to noon. During the peak morning weekday hour, from eight to nine, there would be 15 to 20 trips.

Mr. Wessling said he had confirmed those numbers by consulting national studies, which suggested that, on average, there would be one or two trips for each driving-range tee. With 13 tees at the Windfarm facility, that would account for about 38 trips in and out during the peak hours. He had also calculated how many of those trips would be coming

from and going toward the blinker intersection and how many would be heading from or toward Vineyard Haven on the Edgartown-Vineyard Haven Road.

Mr. Israel requested that Mr. Wessling elaborate further on what could be expected to occur at the intersection of the Edgartown-Vineyard Haven Road with the Martha's Vineyard Arena access road, which was also the access to the housing on the golf course. *[Mr. Wessling's reply, if there was one, could not be heard on the tape. When asked by the Staff Secretary, Mr. Wessling said that he could not recall what he had answered.]*

Ms. Sibley wanted to know if Mr. Wessling knew the total trips per day in and out of the driving range. Mr. Wessling answered that he did not have that number, just the number of trips in the peak hours. Ms. Sibley asked Mr. Wessling to provide that number at a future Hearing session.

Mr. Best read aloud a paragraph on page 2 of Mr. Wessling's Staff Notes:

“Based on the above, a combination of 30 new dwellings and a loss of the Windfarm driving range would result in:

A net gain of four trips through the blinker intersection during a summer weekday morning;

A net loss of one trip through the blinker intersection during a summer weekday morning;

A net loss of three trips through the blinker intersection during a summer weekday morning.”

What does that mean? asked Mr. Best. Mr. Wessling corrected the second result listed, changing word “morning” to “afternoon,” and the third result listed, changing the words “weekday” to “Saturday.” Thus, the paragraph should have read:

“Based on the above, a combination of 30 new dwellings and a loss of the Windfarm driving range would result in:

A net gain of four trips through the blinker intersection during a summer weekday morning;

A net loss of one trip through the blinker intersection during a summer weekday afternoon;

A net loss of three trips through the blinker intersection during a summer Saturday morning.”

Mr. Toole observed that the plan appeared to call for a new access from the east side of the Martha's Vineyard Arena that would result in an additional curb cut. "That's correct," answered Mr. Wessling, who then commented that the access proposed was not consistent with the Guidelines for the Island Roads DCPC. Ms. Greene and Mr. Donaroma both commented that such access would require a Special Permit.

Mr. Toole wanted to know if the present access to the arena would remain. Mr. Lafferty said that it would not.

Mr. Athearn asked about the number of trips that would be generated from the houses around the golf course. Mr. Wessling said that he had assumed that each of the market-rate houses would produce 13 trips for Barnes Road; and for the 16 affordable-rate units, he had assumed eight trips for the Edgartown-Vineyard Haven Road.

"What is the total, David?" inquired Mr. Israel. *[Mr. Wessling's reply was inaudible, and when asked by the Staff Secretary later, he said he did not recall what his answer had been.]*

With the Commission members' questions for the Staff at an end, the Hearing Officer indicated that Mr. Israel could pose some queries he had about traffic to the Applicant. Mr. Israel's first question was whether the Applicant would have any kind of presentation on any expected changes in the project's impact on traffic, now that a housing element had been added.

Mr. Donaroma interjected, "Mr. Chairman, we've been through all this. Negligible is negligible. I mean, our own Staff said it's negligible. This committee voted that we didn't need to listen to anything other than our Staff." "*Land Use Planning* voted that," stressed Mr. Israel, and he was not, he said, asking for a traffic study from the Applicant. "I think we're wasting time," declared Mr. Donaroma, who added, "Why don't we put it to a vote?" An exchange of words between Messrs. Donaroma and Israel ensued, and the Hearing Officer gaveled them down twice.

Mr. Lafferty approached the microphone. He related how when the Applicant's team had sat down and worked out the conceptual plan for this Application, the question of whether to do a full traffic study had arisen. Having discussed this amongst themselves and with Mr. Wessling, he said, all had agreed that it would be more appropriate instead to offer a donation to the Town for its work on the blinker intersection. The Applicant's own consultant had concluded, Mr. Lafferty reported, that there would be "virtually no change in the traffic situation as a result of the addition of the houses because [of buying] the Windfarm property." The time was 8:08 p.m.

Testimony from Public Officials and Boards.

Joe Alosso, Chairman of the Oak Bluffs Board of Health, noted that the Board of Health as a whole had not spoken on the earlier Down Island Golf Club proposals. "But right now we feel that this is an issue for the Town of Oak Bluffs," he said. He had wondered, he went on, why the third plan had houses, and the answer he had arrived at was that the first two Applications had been denied and the Applicant was looking to do the project differently.

Mr. Alosso commended the Commission Staff and expressed the hope that the Commission members would listen to what they had said. The wastewater-treatment system for the project would ultimately come before the Board of Health, he pointed out, "and that's where it needs to go. That's the only board that can approve that system."

No one on the Island knew the water of the Island better than Mr. Wilcox, Mr. Alosso declared. "What do you want?" he asked. In addition, the water use on the property would be monitored by the Town. He spoke as well of the new technologies available that would lower the nitrogen concentration in the effluent produced by the development.

Mr. Alosso emphasized that the Town of Oak Bluffs was asking the Commission for something – to work with them. "I hope that the Commission will start to listen to the people that they represent, and I'm not sure that that's happening now," he said, adding that he hoped the Town would not withdraw from the MVC and that the Commission would stay strong. (Applause)

John Bradford of the Oak Bluffs Planning Board had a question for Mr. Wilcox: In considering the amount of water that would be needed to service the turf on the golf course, was a certain percentage of that going back into the groundwater as recharge? "If it's done right, very little would go back into the groundwater as recharge," replied Mr. Wilcox. "The typical approach is to try to apply just what the turf needs to keep growing ... They don't want to put on excess water that's going to go through the root zone and back into the water table."

Linda Marinelli requested that she be allowed to speak as **the Vice-Chair of the Oak Bluffs Finance Committee**. Ms. Marinelli stressed that it had not been voted by the Finance Committee that she come before the Commission to speak on their behalf. However, she did have a question, she said. Mr. Toole asked that she wait until the public testimony segment of the Hearing.

"Did Joe [Alosso] speak for the Board of Health or as a citizen?" inquired an unidentified member of the audience. "Don't worry about it," responded the Hearing Officer. When a number of audience members began to complain loudly, Mr. Toole warned that he could close the Hearing right then. "This is difficult enough," he declared. "Be fair!" shouted a number of audience members. Mr. Alosso answered the question about the nature of his testimony. *[It was inaudible on the tape.]*

Fred B. Morgan, Jr., an Edgartown Selectman, referred to a letter his board had written to the Commission. Number one, he emphasized, his board did not want to see Oak Bluffs withdraw from the MVC. "Edgartown pays the largest assessment," he said, "and we would pay whatever the obligations down the line might be ..." Based on all the information they had, he continued, his board supported the boards of Oak Bluffs, "and we hope that you really consider this proposal seriously." (Applause) The time was 8:16 p.m.

Testimony from Members of the Public.

Ms. Marinelli approached the microphone and referred to a statement by Mr. Lafferty that there were certain homes in the project that would not allow children. "And I thought that in my reading in the past that you couldn't discriminate against young kids," she remarked. *[See Mr. Lafferty's testimony on pages 20-21 of the Full Commission Meeting Minutes of September 4, 2002, where he stated that nine of the market-rate market units were earmarked to be secondary residences for the purpose of minimizing the number of children that would impact the Oak Bluffs school system.]*

An unidentified person asked the Applicant to respond to Ms. Marinelli's comment. The Hearing Officer indicated that the Applicant could address this during the summation later in the Hearing.

Richard Lochridge of Chilmark pointed out that the golf club, although started by Applicant Corey Kupersmith, would eventually be taken over by 300-plus members, headed by a board of directors made up, by and large, of local and summer residents. A member would expect a few things: for one, to be able to play, and for another, to be able to sell his membership when he got too old to play or he moved away, with some hope for financial gain from the latter transaction.

There were two parts to this puzzle, Mr. Lochridge continued. First there was the capital that was risked upfront, first by Mr. Kupersmith and subsequently by those who thought it was worthwhile to buy into the club. The second part of the puzzle was the operating costs of the golf course. "Now the operating costs for a golf course actually aren't that big of a deal," he remarked. So the more important aspect was the investment capital, he said.

Two things could happen with regard to the capital, Mr. Lochridge went on. One possibility was that Mr. Kupersmith would not be able to sell the memberships and he would go bankrupt. This was what had happened at the Farm Neck Golf Club, which had begun as a private club but had had to become public on a different set of terms to survive. Normally, it took four or five years before the equity of a club sold out, and if that did not come to pass, then the club could be reorganized on a different basis, he explained.

The Hearing Office asked Mr. Lochridge to wrap up his testimony. Mr. Lochridge said that it was hard to explain why golfers were willing to risk their capital to belong to a club. His point was, he emphasized, that if they belonged to this club, he believed the members would be good participants in the Town. Land was what had the most value in the Town, he argued, and so this land eventually had to be put to some use. And having a golf club there would be a good use, he stressed. "It's a better use of the land than a lot of other things that could happen," he concluded. (Applause)

Paul Strauss of Oak Bluffs observed that "an Applicant for any project, when he operated within the margins of environmental considerations and economic factors, it can be like rearranging the deck chairs on the *Titanic*. There are some visible differences on the surface that don't necessarily, and they usually don't, change the inevitable impact." The Application stated that it was for an 18-hole golf course, substantially as it had been when previously submitted, he continued. "Why should this be an acceptable thing to do to the Martha's Vineyard Commission, who has denied two similar plans?" asked Mr. Strauss.

Mr. Strauss displayed next to each other the site plans from the three Applications. While the Commission had requested that the Applicant present only the differences in this plan from the earlier ones, he said, "I think what you got was the full array of factors – environmental, economic and others – that apply to the earlier plan[s] as well, and that's got to be confusing for all of us."

Pointing to the site plan for the first Application, Mr. Strauss noted that in this plan the greens, tees and fairways had been located very close to Barnes Road. The second plan had moved some of that to newly acquired property north and east of the original property, "to all the good," Mr. Strauss commented. That plan, too, had been denied, he said.

What was the Commission being asked to consider now? asked Mr. Strauss. "We see and read that there is a new line of demarcation here, which moves golf-course activity further east, away from Barnes Road. But if you look a little closer, you see that the holes that had been up here – 12, 13 and 14 and 15 – are still here. The easternmost one of them, 13, is moved, rotated slightly, and moved a little bit. To accommodate it in its new location, this fairway here, number 14, is [inaudible]. But that whole group of holes is not going easterly at all. It remains where it was."

Turning to the subject of the parcels that were "allegedly" being acquired by other agencies, the proponent of the second plan had claimed the potential for 100 acres of open space on the site, including 76 acres owned by the Applicant and the 24-acre Town Parcel, said Mr. Strauss. Now, though, there were only 45 acres of open space owned by the Applicant on the site, "so there is a reduction in open space." The Applicant claimed that this reduction was compensated for by the 9.2 acres of the driving range, he pointed out. "That doesn't seem to me to be an appropriate tradeoff, especially since the driving range is not in the Southern Woodlands," Mr. Strauss remarked.

The Applicant's team had also claimed that the changes in the golf course layout moved course activity, including irrigation water requirements and nitrogen and pesticide applications, toward Sengekontacket Pond. "That may be very good for the Lagoon," he observed, "but Sengekontacket is not a pure, pristine pond. It is also under stress."

Mr. Strauss went on, "But the idea that you can take essentially the same applications and move them from one sensitive body of water to another and not cause harm seems inappropriate." Moreover, he said, there were already two golf courses in the Sengekontacket watershed. He pointed to the locations of the Farm Neck Golf Club and the Edgartown Golf Club. "You're now being asked to put another golf course in the same watershed," he declared. "It's bound to have an impact."

Mr. Strauss enumerated other concerns, which included: water quality; water quantity; light and noise pollution; adequate campsite spaces; and the need for adequate affordable housing. "I ask you to deny this plan, but mostly I implore you to do it and try to find a creative way to do it so that the Applicant cannot come back with yet another plan," he concluded. (Applause)

Deacon Perotta, a resident of Oak Bluffs, noted that although he was the Water Superintendent of the Town, he was there as a taxpayer. Mr. Wilcox had said that there were 145 billion gallons of water in the aquifer, said Mr. Perotta, and 2 billion gallons of that were being used in the outwash plain. "That's 1 percent of the total water that is available," he stressed.

Mr. Perotta continued that he had looked at the permit for water withdrawal issued by the Department of Environmental Protection for this project, "and over a 10-year period they average 38 million gallons of withdrawal approximately. That 38 million gallons over a 10-year period each year equals 15 days' pumping of the Oak Bluffs Water Department in the summer..." he related. Referring to the 0.4-foot drawdown-differential threshold, he pointed out that in the future wells would be put in for municipal purposes and that these might affect that threshold.

"I think the Martha's Vineyard Commission should look favorably on the project," Mr. Perotta concluded. (Applause)

Anne Gallagher of Oak Bluffs stated, "It looks like a duck, it walks like a duck, it *is* a duck. This is a golf proposal which has been rejected twice, and it's still a golf course proposal before you for a third time. Very little has changed, except the number of gifts that are being offered to the Town."

Ms. Gallagher continued, "What a developer does historically in a community is try and figure out what it takes to buy out a Town. He's tried threats, 288 houses, lawsuits, wanted the Town to withdraw from the Vineyard Commission, and now he's entered into

a confidential agreement with four Selectmen of Oak Bluffs. The Selectmen are voted into office by the voters of the Town, and yet we had no input on this agreement.”

Ms. Gallagher pointed out that the Town had in fact asked its residents to save water. “Last summer I was told not to water my lawn,” she said. “How can we accept a new golf course which uses thousands of gallons of water daily to keep its greens healthy? They will counter by saying they will draw from the wells, their own. But we all draw from the same Island aquifer, which has a limited supply, especially during a drought like the one we had this past summer.

“In summary, it’s difficult for me to see how this proposal can benefit not only Oak Bluffs but the entire Island,” Ms. Gallagher declared. “I urge you to once again deny this plan... I thank you all.” (Applause)

Leslie Look of Oak Bluffs stated, “I see quite the opposite. I see that Corey Kupersmith came to you, asked you for what you wanted. You gave him what you wanted. He gave it to you. You asked for more. He gave it to you more. You asked for more. He gave it to you more. And the way I see it is that he has given this Town and the Commission everything that they have asked for. We’ve spent a lot of money and a lot of time that I feel has been wasted.”

Ms. Look asked the Commission members to “go to the Farm Neck Golf Club, walk the entire course, watch the scallopers and the shellfishermen fishing right next to the eighth hole and the eighth fairway, and then come back and tell us that Farm Neck has hurt this Island.” (Applause)

Ann Margetson of Oak Bluffs began by thanking the Commission members for the enormous amount of time and patience they had spent on these matters. “It’s been quite heroic,” she remarked, “and I say this from my heart to all of you.”

Reading from a prepared statement, Ms. Margetson said that she wanted to speak for “the beleaguered taxpayers of Oak Bluffs,” who had been threatened with massive housing developments and litigation and who had had a Special Town Meeting so packed that about 100 voters could not get in to participate. And although a conservation package with the Land Bank and the State had been proposed, neither the head of the Land Bank nor the Island’s Legislative Liaison had been recognized to speak, Ms. Margetson reported. “Their offers were belittled and distorted,” she declared.

In spite of this onslaught, Ms. Margetson continued, one-half of the voters present minus six had voted to take the Southern Woodlands by eminent domain. “Some Commissioners have wished aloud that Oak Bluffs had a referendum on the golf question,” she said. “I say it already exists in recent history.” By 1999, she noted, the Town had rejected the concept of the golf course in the Southern Woodlands three times.

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At the time of the last vote, Ms. Margetson went on, the voters had approved the expenditure of \$20,000 – with \$10,000 coming from the Land Bank – to investigate the taking of Webb's Campground by eminent domain. "This investigation and appraisal never happened," she related. "Ron Mechur was then the Oak Bluffs Assessor. He calmed our concerns about development in the same Southern Woodlands by stating that the titles of all that land were so cloudy and complex that nothing would be done soon. Six months later, he was working for Corey Kupersmith."

The rest of the story was familiar, Ms. Margetson said. Four of the Selectmen had signed an agreement with the developer using a lawyer paid for by the taxpayers and not holding the discussions in open meeting. "Total disenfranchisement for the people of Oak Bluffs – I submit to you that this is what happened and that we have already produced a referendum for you," she stated.

Ms. Margetson then referred to an article from *The Boston Globe* titled "Protecting Forests" that she had sent to the Commission. "It's about a new effort on the part of the Federal Government to protect the forests," she said, then reading aloud of the article. Next, Ms. Margetson spoke of a recent issues of *U.S. News and World Report* and *National Geographic* that had been devoted to the issue of water.

Turning to the subject of economics, Ms. Margetson remarked, "I wish to mention that the Martha's Vineyard Commission ... has brought more cash to the Town of Oak Bluffs than any private development will ever bring, unless it is something like a toxic waste dump."

There were two sides to economic management in a Town, said Ms. Margetson – more money and better management. She pointed to the conclusion reached by Assessor Paul O'Leary in 1998 that if the campground were managed for the Town by professionals, it could bring to the Town more than \$400,000 annually in revenue without harm to the environment.

As for the issue of affordable housing, Ms. Margetson related that she was upset that that had been no mention of the Resident Homesite land (the Town Parcel) in the package and that she wanted to know what plans the Selectmen had for this land. (Applause)

Ron Mechur of Oak Bluffs requested that the Hearing Officer allow him to make a statement to clarify something that Ms. Margetson had just said. First of all, he said, he was not speaking for the Applicant and had not been in the Applicant's employ for the past five months. It was correct that he had been the Chairman of the Board of Assessors for eight years, he stated.

Also, continued Mr. Mechur, he had not known Mr. Kupersmith at the time that Ms. Margetson had referred to. Moreover, he had been concerned about the title for the Southern Woodlands, and he had asked Town Counsel Ronald Rappaport if his board should be concerned if someone went ahead and acquired the property. "Ron's response

to me was, 'We don't need to worry because the title is so confused, no one will ever clear it up,' related Mr. Mechur.

Steven Robinson described himself as a **sixth-generation taxpayer in Oak Bluffs**. "I am in favor of this proposal," he said, "and I am personally appalled at the amount of time and money that have been wasted by the Martha's Vineyard Commission and by lawyers that have been just fooling around with this situation for as long as it has been, for a couple of years now. I would like to see the Martha's Vineyard Commission approve this project."

Mr. Robinson stated that he did not think the project would be detrimental to the environment or to Town economics, and he wished, he said, that the Commission would follow the advice of its own Staff. (Applause)

John Wilbur of Tisbury said that he had lived on the Lagoon year-round for 12 years. He thanked the Applicant and his team as well as the Commission Staff for the capable work they had done. "And I pay tribute to the wisdom of the Commission," he said. "You've been very patient, and my hat goes off to you."

Mr. Wilbur remarked that both he and his wife, Jane, were "vehemently opposed to the proposal." They had been associated with Hilton Head and Myrtle Beach, South Carolina, he related, "and the saying comes to me that, 'If you do not learn the lessons of history, you are forced to endure the mistakes of the past all over again.'"

Mr. Wilbur continued, "The character of both Hilton Head and Myrtle Beach has changed dramatically ... There is horrendous traffic. I think there are more golf courses per capita than any other city in the country in Myrtle Beach. Commercialization has taken over. [They're] no longer the pleasant communities that either of them once were. I've been told that now Hilton Head has to import its water."

He had listened carefully to the evidence, Mr. Wilbur said, and maybe it just came down to many people thinking that there was just no need for another golf course. "It seems to me that there are plenty of opportunities for golf at the four or five courses that are in existence or at the miniature golf place on State Road, complete with a blue fountain," he said. (Applause)

Fred Mascolo of Edgartown testified that he had lived on the Island for 25 years. "I do not equate an 18-hole golf course with miniature golf," he said, "and I think it's kind of a no-brainer. It's a very good thing for the Island. I don't think we need another subdivision of 90 houses, 3-acre lots, 270 acres, when you have the opportunity to have 120 acres where you actually control what goes into the ground there."

Mr. Mascolo pointed out that the economic benefits would be great for the Island, considering that most of those present depended on summer business. "And I think this would be a great benefit to the Island," he concluded.

Renee Balter of Oak Bluffs stated that she wished to make it perfectly clear that she was not there representing the business community of Oak Bluffs. She wanted to make known, she said, how disappointed she was with the actions of four of the five Selectmen with regard to the project. "Not because of their views on this matter," she explained, "but rather the way they have politically positioned their views to the exclusion of many voters in Oak Bluffs."

"I know that I am speaking for many people," continued Ms. Balter, "when I say that each time I hear them say that they represent the voters in Oak Bluffs, my views are excluded, and it infuriates me. Something that is crucial to the future of our Town should be put to a ballot vote. This is the only way to know for certain how the voters feel and what steps they want to take."

Only if the majority of voters cast their ballots in favor of the project would the Selectmen have the right to act accordingly, Ms. Balter went on. "Without this vote, they can only continue to deprive a great number of Oak Bluffs citizens and voters of their right to be included," she declared.

Ms. Balter thanked the Commission members for their time and efforts on behalf of the Town of Oak Bluffs. (Applause)

Michael Santoro, an Oak Bluffs businessman and resident, testified that he was very disappointed with the Commission's stance against the golf course.

Jon Scherlis described himself as "**an intermittent resident of the Island for more than 40 years, landowner, homeowner and repairman ... in West Tisbury.**" He observed that he had heard the word "nitrogen" countless times that evening but the words "phosphorus" and "phosphates" only once. This was due, he said to a "subscription to what now appears to be an obsolete or disproven paradigm."

The assumption had been, Mr. Scherlis explained, that phosphorus, a nutrient in freshwater bodies, did not get into groundwater as nitrogen did. "But, in fact, recent work done by scientists from the U.S. Geological Survey on Cape Cod has shown that this is not the case and that phosphorus is indeed a problem as a toxic," he said. He had passed this information on to Mr. Wilcox.

Strictly speaking, Mr. Schleris continued, he was not speaking against the golf course, nor, certainly, was he speaking for it. His testimony, he said, was precautionary, and he was concerned that since this information was newly arrived at and not codified or legislated, he wanted the Commission to be aware of it. (Applause)

Mr. Schleris added that it was clear from looking at the map that there were a number of freshwater ponds that would be in the path of any groundwater plume.

Maura McGroarty of Oak Bluffs pointed out that they were sitting in a building in the Town of Oak Bluffs – the regional high school – that did not pay taxes. They might have met over at the arena, she said, another property that paid no taxes to the Town. So too could they have met at Island Elderly Housing or the hospital or Windemere. “I think that you get my drift,” she said.

Ms. McGroarty continued that she was a taxpayer who had watched her bill go up and up, and for that reason she was looking for something to help her and all of the others who, like herself, worked more than nine to five and more than five days a week and who could not be there that evening.

About five years earlier, Ms. McGroarty related, a proposal for the Town to build a public golf course had not received the necessary votes to be passed. “So when I hear people say how you’ve heard from the voters of Oak Bluffs and it’s been turned down, well yes, it was turned down, but it didn’t make the *67 percent*. That’s why it was turned down. The second time that it came up, it went up to about 62 percent is my recollection. We wanted a golf course, we just didn’t want to pay for it.”

Although she realized she was “beating a dead horse,” Ms. McGroarty stressed that “Oak Bluffs did not turn down a golf course, once, twice, three times. They turned down *paying* for one. I’m not sure I want a golf course up there. But I’d rather have a golf course than homes or a company that produces tires or whatever else.” What she wanted for that land, she said, was a light business that provided the community with a tax base while not polluting water or erecting huge structures.

Ms. McGroarty expressed her disappointment with the Commission’s Denial of the second Down Island Golf Application, particularly because the Commission had apparently ignored the advice of its own Staff. That was why, she said, she had been one of those who had voted for the Town to withdraw from the Commission.

Ms. McGroarty then stated: “If I pay my taxes so that you can pay your Staff to tell you what their opinions are and then you turn around and say, ‘I don’t, I appreciate your opinion, I’m not arguing with you, I think you’re right, but I’m going to vote against it,’ I don’t want to pay for that because I’m already paying enough.”

Ms. McGroarty also commented on some of the “negative body language” she had noticed from a few Commissioners when people like her had spoken. (Applause)

David Araujo of Oak Bluffs, a former Tisbury Selectman, recalled what had happened years before when a developer had tried to build on the Nobnocket property in Vineyard Haven, “and they came to us with all kinds of bribes, you know, ‘We’ll give you so much money for this, we’ll give you so much money for that, we’ll buy this for you.’ You know what? Don’t come to me and try to bribe me to give you something. Don’t try to blackmail me. Don’t try to intimidate me.”

Mr. Araujo remarked that Martha's Vineyard did not need another golf course. "What I'd like to see is some homes," he continued, "where my children can afford to live here. If I had \$250,000 to join a golf course, I'd go out and buy a house for my child." In addition, he wanted to be able to go quahogging in the ponds of Oak Bluffs and stay on the Island and live here comfortably. "I do not want to be blackmailed and intimidated," he declared.

"There's nothing wrong with the Martha's Vineyard Commission," Mr. Araujo stressed. "We have not been sold out by the Martha's Vineyard Commission, but we have been sold out by, we have been sold out by a few of our elected leaders." (Applause)

Mr. Araujo finished up: "You know what? I was always taught that democracy was rule of the people. You know what? Rule of the people, not a select few. Ladies and gentlemen, we do not need another golf course. Give me some homes. Give me some affordable homes." (Applause)

Eric Williams of 28 Naushon Avenue, Oak Bluffs, acknowledged the "complex Decision that's before you. The Down Island proposal speaks to many things in our society that concern all of us – environmental damage, over-development, moderate-income housing, shortages, small-town economics and many more." He appealed to the Commission not to allow the presence of golf course opponents that evening change their thinking about the facts of the project. "The majority of the people in this room are against the project, but I believe they are in the minority," he said.

Mr. Williams reminded the Commissioners about the Special Town Meeting where a majority voted to withdraw from the MVC, "partially because of the way this Commission handled the proposed project." Maybe those who believed that the Settlement Agreement should have been worked out in an open forum were right, he continued. "As a matter of fact, they *are* right," he emphasized. "But had there been an open forum, the support for the project would have grown in my opinion."

Mr. Williams related his own concerns about the environment, and he admired, he said, those who shared those concerns. But there were "pages and pages of scientific documentation that spell out the project and work to protect the environment," he stressed. He pointed to the fact that Farm Neck, Mink Meadows and the Edgartown Golf Club all had sat on bodies of water for many years, and there had been no apparent long-term detrimental effects. "If they have, I haven't seen the articles in the *Gazette*," he added.

As for the matter of elitism, Mr. Williams noted that the Vineyard Golf Club, which the MVC had approved, had a membership that was "a *Who's Who* of corporate America." He had considered joining that club, he said, but had chosen Down Island Golf Club instead because of its ethnic diversity, not that the Vineyard Golf Club was not aiming for that as well. "This developer has made a conscious effort to embrace and recruit people

of color and women," he remarked. He spoke a few minutes longer about issues of diversity in Oak Bluffs.

There were also the economic impacts of the project to consider, said Mr. Williams. The Town needed additional revenue sources, and even opponents had to admit that the Town's roads and schools needed help. "Why deny this stepsister Town the economic opportunity of a lifetime?" he asked.

The testimony about golf courses failing around the country was a reality, reported Mr. Williams. But Mr. Kupersmith was quite familiar with a number of courses as well as with people who worked in the industry.

Mr. Williams testified that this particular project would succeed for the following reasons: the Applicant, he believed, had the ability to wait out the economy while memberships were sold; the Applicant was including houses in the project on an Island where the real estate market remained fairly strong; because of the homes, the golf memberships would be priced more reasonably than they had been earlier; and the project was not about the money for Mr. Kupersmith but about a dream. (Applause)

Peggy Amos of Oak Bluffs related how when she had served on the Finance Committee, Mr. Kupersmith had come and promised the Town "so much money, so much this, so much that. Why? Why are you promising us all these gifts? What do you want in return? I was looked at as if I was a complete idiot." Mr. Kupersmith and his team had had no answer, she said. "I think that's something we need to think about," she remarked, "what do they want from us."

The year before, when she had run for Wastewater Commissioner, Ms. Amos recounted, most of the questions she had been asked concerned the golf course. She had stated she was against the golf course, and she had won the election, she said. Ms. Amos then described her experience of returning to the Town a few years before after having been gone for 10 years.

The Martha's Vineyard Commission had been doing "a wonderful job," Ms. Amos commented, adding, "I hope you listen to the people of Oak Bluffs. I do believe, like so many other citizens, that the Board of Selectmen have let us down. They have not come to us to say, 'What do you want?'" She also voiced her concerns about the environment, particularly the issue of clean water, as well as her concerns about the availability of affordable housing. (Applause)

Bob Dusa observed that the Applicant had basically complied with the guidelines set by the Commission. The Vineyard, he continued, had always been a resort type of community, at least for the last 100 years, and Oak Bluffs had long been "the melting pot on the Island." He felt, he said, that the voters had spoken at the Special Town Meeting.

Mr. Dusa testified that he was in favor of the project for a variety of reasons and that it would be a benefit for the Town specifically and for the Island in general. He then made a few suggestions for Conditions the Commission could impose in its Decision that would make the project "a complete package."

For one thing, Mr. Dusa said, the Island needed an public aquatic center, and perhaps the Applicant would donate a piece of his property for this. For another, if the course were designed properly – for instance, taking advantage of natural vegetation – it would have very little impact on the environment, he pointed out. (Applause)

Sam Low of Oak Bluffs observed that when Oak Bluffs officials had offered testimony the evening before, they had many times used "the singular personal pronoun 'I', as in 'I did this, I did that, I made such-and-such a thing happen.' They did not use the plural pronoun 'we'. It's unfortunate when representatives of we the people forget to use that common pronoun" in describing alleged accomplishments.

To say that Oak Bluffs only had the resources of the harbor and, potentially, the golf course, was "a very limited vision," Mr. Low continued. "We have many other economic engines. We have our farmers, our shopkeepers, our builders, our artists, our bakers, our taxi drivers, a multitude of small businesses who have little or nothing to do with the harbor or the golf course. This multitude of we the people are the real force behind our local economy in Oak Bluffs."

Mr. Low commended the Commission for standing for "we the people" in spite of threatened development, withdrawal and lawsuits. "When you're threatened, *we're* threatened," he declared, "because in the end as one of the truest forms of regional Island government, you represent *us*." He added that the Commissioners should not be swayed by either measures of popularity or by "schoolyard bullies."

Referring to the Regional Island Plan, Mr. Low spoke of the values that the Commission was charged to protect. If the Commission simply stuck to those guidelines, the people would support their Vote, no matter what it was, he said. "And as you consider your Vote, keep in mind that all engines, whether economic engines or gas ones, pollute," Mr. Low concluded. (Applause)

The Hearing Officer assured those who still wished to speak that the Public Hearing would be continued to October 10, at which time they would have their opportunity to do so. The time was 9:22 p.m.

Applicant Clarifications and an Additional Proposal.

On behalf of Mr. Kupersmith and himself, Mr. Lafferty thanked the Commission and Staff for the time and effort put forth. Referring to something discussed by Kelly Cardoza in the previous session and by Mr. Wilcox that evening, Mr. Lafferty wanted to clarify some points on the nitrogen-loading projections to the two watersheds. "There is

an absolute reduction in the amount of nitrogen that goes into Lagoon Pond," he declared. "The day we open up, Lagoon Pond is better than it is today."

Mr. Lafferty continued that Mr. Wilcox had said something about there being more nitrogen going into the Sengekontacket watershed as a result of the project. "In truth," he emphasized, "there is a greater *volume* of nitrogen in Sengekontacket, but it's below the 3-milligrams-per-liter standard for Oak Bluffs. It's below the 1-milligram standard set by the Commission, and, overall, it's below the Commission goal that's been set at 10 milligrams per liter. So while there is more [nitrogen], the concentrations meet all the requirements."

Mr. Schweikert, Mr. Lafferty went on, had asked about the Island Elderly Housing. *[See page 15 of these Minutes.]* If the Woodside Village complex was able to hook up to the golf course's wastewater treatment plant, it would be able to expand by 10 or perhaps 15 units, he said.

Turning to Ms. Marinelli's testimony about the Applicant's not allowing children in some of the homes, Mr. Lafferty made it clear that they had no intention of discriminating against children. *[Ibid., page 19.]* What they were proposing to do, he said, was to require that nine of the homes not be primary residences, an idea that had come from the Selectmen so as not to burden further the school system. In any event, his understanding, he testified, was that the houses on the Farm Neck Golf Club property added no children to the school system.

Another speaker had referred to some sort of secret deal concerning the Town Parcel, said Mr. Lafferty. *[Ibid., page 23.]* If the speaker had looked at page 12 of the Settlement Agreement, he would have seen all laid out, "chapter and verse," what was happening with regard to that land.

Referring to Mr. Araujo's comments on affordable housing *[Ibid., page 27]*, Mr. Lafferty said he hoped Mr. Araujo's son showed up when the affordable housing associated with this project became available.

Mr. Lafferty noted that in the next Public Hearing session the subject of economic viability would be addressed. "You know, I'm not so sure the Commission should be looking at protecting the competitive situation in any business on the Island, never mind golf courses," he remarked. "And quite honestly, I didn't know the number until Ms. Warner brought it up that Vineyard Acres is talking about \$250,000 for memberships. I mean, that's hardly a price war ... That's a whole lot of money."

The studies on golf courses, Mr. Lafferty emphasized, showed that the Vineyard market was "vastly underserved." One indication of that, for instance, was that over at Farm Neck Golf Club, "their ... annual dues have gone down over the course of the last five years, and the reason they've gone down is because of increased public play because there's limited access to golf on Martha's Vineyard." Myrtle Beach – to which a speaker

had referred [*Ibid.*, page 24] – had 250 golf courses, he pointed out. “Martha’s Vineyard doesn’t even have a hundred holes,” he noted.

In this particular instance, said Mr. Lafferty, he did not see the economic feasibility of another golf course being a legitimate concern. Mr. Kupersmith, who was a “smart guy,” had invested \$30 million in the property and the process, he continued, and he would not be doing that if there were a chance it was going to fail. In addition, they already had a list of 157 members who were prepared to invest in the golf course. “That’s even given the fact that this has been a more than four-and-a-half-year process,” he stressed.

One thing that boards and commissions sometimes did not understand, Mr. Lafferty went on, was that that it was *they* who drove the pricing of things from the development perspective. The length of this process, in fact, had driven up the budget for this golf course exponentially, he said – “I mean, this project costs Mr. Kupersmith somewhere around six, seven thousand dollars every day.”

Finally, Mr. Lafferty turned to the subject of the funding that the Applicant was hoping would come from the Department of Environmental Management and the Land Bank. “We’re convinced – reasonably convinced – that if this project is approved expeditiously, the funding will be forthcoming from both the Department of Environment Management and the Land Bank,” he testified. He pointed out that the administration would be changing soon, with an accompanying change of budget structure. “DEM ... has already made it perfectly clear that they are not interested in committing a future administration with their funds...,” he said.

Regarding the Conservation Restriction that Ms. Brown has inquired about [*Ibid.*, page 4], “[it] is still proposed,” reported Mr. Lafferty, “and if this golf course fails, there is a Conservation Restriction [such] that nothing else happens to it. If it fails in the interim, nothing else can be done.”

Furthermore, Mr. Wilcox had proposed that the Applicant be required to post a bond for the construction of the golf course, related Mr. Lafferty. If the Commission attached such a Condition, “it would ensure that the golf course got built, regardless of what happened, and then it would end up having a Conservation Restriction, so the Apocalypse sort of scenario that, you know, was alluded to, is impossible,” he stated.

Returning to the issue of the possible DEM and Land Bank purchases, said purchase was time-sensitive, Mr. Lafferty emphasized. The whole project was time-sensitive, he said. He had been disappointed, he noted, that the Commission had changed the proposed Public Hearing schedule. “When we talked about it at LUPC, we anticipated that the last time would be on September 12th, and now it’s scheduled for sometime in October,” he explained.

“So in an effort to try to minimize the financial impacts of this and maybe do something that was brought up by, actually, the Oak Bluffs Selectmen, I’m going to make a

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suggestion," continued Mr. Lafferty. "We would like to see this Hearing closed this evening ... [E]verything that's happened on this project and this piece of land has been beaten to death. There is nothing new." He then challenged anyone to add something new to the testimony.

"So we're going to ask that the public portion of this Hearing be closed tonight," Mr. Lafferty went on, "and I understand that the Commission generally leaves the record open for written comments for some period of time, and we're going to ask that the Commission agree to issue a Decision on this project by October 15th. That is driven by two things. I already said Mr. Kupersmith's costs and the fact that to make this project work as a whole as it was proposed, this money from the Department of Environmental Management and from Martha's Vineyard Land Bank Commission is necessary as part of the whole."

An unidentified member of the audience interrupted Mr. Lafferty, who then commented on the lack of courtesy demonstrated by some people. Returning to his argument, he spoke of Mr. Rebello's proposal to allow public play on the golf course. "What we're prepared to do, based on discussions in the course of the day and last night," he proposed, "if we can have Approval by October 15th, which in our minds secures the outside funding to make this happen, we will agree to introduce to propose *[sic]* a public golf component."

Mr. Lafferty elaborated: "By that I mean the core golf course would be open to the public, any public that shows up, exactly like Farm Neck under the same terms and conditions at Farm Neck. If I'm not mistaken, after two o'clock every day any member of the public can show up, pay their money and go play. So based upon what Mr. Rebello suggested ... that is truly not only a benefit for Oak Bluffs but and Island-wide benefit."

Mr. Lafferty also spoke of how "irrespective of whether or not the money came through, the Conservation Restriction and the transfers have to take place. It also presumes that if that happens that we would then negotiate with the Board of Selectmen for an increase in homes to make up the difference in the funding."

Mr. Lafferty provided more details: "So what we're prepared to suggest tonight, there again depending on the fact we get this Hearing closed and get this project approved and finally out of the way ..., is on the two parcels *[he pointed them out]*, the DEM and Land Bank parcels, if for any reason ... the funding doesn't come through for those two parcels, we will agree that for the next three years we won't come back and ask for additional housing on that parcel."

Mr. Lafferty added: "But we will leave those parcels exactly the way they are, available for sale to any conservation group that wants to buy them under the exact same terms and conditions, those terms and conditions being the existing pricing agreement, adjusted only for the CPI, they're still subject to the archaeological restriction and they're subject

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to the [inaudible] restriction, they're subject to every other restriction that DEM and Martha's Vineyard Land Bank Commission would be subject to."

Mr. Lafferty finished by asking the Commission to make the Motion he had proposed to close the Public Hearing that evening. (Applause) The time was 9:37 p.m.

Discussion: Whether to Close the Down Island Golf Club Three Public Hearing.

Mr. Best said that he once again was disagreeing with the Applicant's claim that the Commission process had taken four and a half years. According to Staff, he said, the Commission received the first Application at the beginning of 2000.

Mr. Donaroma made a **Motion To Close The Public Hearing And Leave The Written Record Open**, seconded by Marcia Mulford Cini, a Commission member at large from Tisbury.

Ms. Sibley remarked, "This was discussed by the full Commission, and there was a unanimous Vote, and ... there was an overwhelming Vote to set the schedule the way we did." [See page 14 of the Full Commission Meeting Minutes of August 29, 2002.] In addition, said Ms. Sibley, the Commission had announced that schedule to the public, and the Hearing Officer had announced it again in the first session the night before. "It seems to me a real violation of our relationship to the public to rescind that," she stressed, "and I will vote against the Motion to close it." (Applause)

Mr. Woodruff commented that he was confused. For instance, he pointed out, the amount of money coming from DEM and the Land Bank was minimal in view of the cost of the entire project. "And I don't see closing this Hearing," he concluded. (Applause)

Mr. Best observed that one could not anticipate what the public would have said in testimony if the Hearing were to be closed that evening. Moreover, he wondered why this had not be proposed by the Applicant earlier.

James R. Vercruysse – a Commissioner at large from Aquinnah and MVC Chairman – suggested that the Public Hearing be suspended temporarily while the Commission discussed this issue, since he did not want to hear applause every time someone spoke. He then asked for an appropriate Motion. Mr. Donaroma made a **Motion To Suspend Temporarily The Public Hearing So The Commission Could Discuss The Issue Of Closing The Hearing**, duly seconded. By Voice Vote, said Motion carried, with all voting Aye, except for Mr. Israel, who voted Nay, and none Abstaining.

Mr. Israel argued that the public had been under the impression that another session would occur in October. On the other hand, the Commission had been clear that it was trying to move along the process as expeditiously as possible, he said. With the time now available until October 10, he continued, the Commission could certainly vote on the proposal within a week if they closed the Hearing then.

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"Why can't we go back to September 12th?" inquired Ms. Warner. "I would make a Motion to do that," said Ms. Greene. Ms. Warner argued for a Hearing session on September 12, with the public then having a chance to speak further.

Mr. Donaroma made the point that in fact from day one in the Land Use Planning Committee meetings, the Applicant and the Selectmen had emphasized that time was of the essence. And in LUPC it had been decided to schedule the sessions for September 4, 5 and 12, and then to consider a session on October 10 if it was deemed necessary. *[Ibid., pages 12-14, "Discussion: LUPC Recommendations for the Scheduling of the Down Island Golf Club Three Hearing (DRI No. 556)."]*

Mr. Donaroma concluded by saying that he, too, would like to see the Commission go back to having a session scheduled for September 12. "If that's a Motion, I would second that," he said. Ms. Sibley pointed out that there was already a Motion on the floor.

Ms. Greene stated that even before the Land Use Planning Committee Meeting on August 26, the Commission had agreed to have Hearing sessions on September 4, 5 and 12. *[See pages 13-19 of the Full Commission Meeting Minutes of August 8, 2002, "New Business: Discussion of a Proposal from the Oak Bluffs Selectmen – New Down Island Golf Club Application (DRI #556)."]* Ms. Warner noted that Mr. Israel could not attend a session of September 12 because of the possibility that evening of a Special Town Meeting continuation in Tisbury.

The discussion continued. Mr. Lafferty made some comments off-mike. *[They were not clear on the tape.]* The Chairman remarked that he agreed with Ms. Greene that the Commission should reconsider meeting next on September 12 instead of on October 10. **Mr. Donaroma** pointed out that if the Hearing were to be closed this evening, written testimony could be submitted. He then **withdrew his Motion To Close The Public Hearing**, and Ms. Cini withdrew her Second.

Governor's Alternate C. Mikel Oglesby related that he had rearranged his schedule so he would be able to attend on October 10 and that it was too late for him to make new arrangements so he could attend a Public Hearing session on September 12. Ms. Greene offered other possible days for the week beginning September 8.

The discussion continued. Robert Zeltzer, a Commissioner at large from Chilmark, proposed that the Commission could meet on a date agreed to by all to finish up the Hearing and then simply stay in Special Meeting session until the Oral Vote had been accomplished.

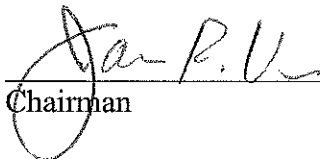
Ms. Greene made a **Motion That The Commission Return To The Public Hearing That Had Been Suspended**, duly seconded. Said Motion carried by Voice Vote. Ms. Greene next made a **Motion That The Public Hearing Be Kept Open Until October Tenth And That Commission And Staff Make Arrangements To Start As Early As**

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Was Necessary So That The Hearing And Record Could Be Closed That Evening And The Oral Vote Could Be Taken By October Fifteenth, duly seconded by Mr. Donaroma.

After still more discussion, the Hearing Officer continued the Hearing to Thursday, October 10, 2002, "site and time unknown."

The Special Meeting adjourned at 10:00 p.m.


Chairman

12.12.02
Date


Clerk-Treasurer

12.12.02
Date

PRESENT: J. Athearn; J. Best; C. Brown; M. Cini; M. Donaroma; J. Greene; T. Israel;
C.M. Oglesby; M. Ottens-Sargent; A. Schweikert; L. Sibley; R. Toole;
J. Vercruysse; K. Warner; R. Wey; A. Woodruff; and R. Zeltzer.

ABSENT: A. Bilzerian; E.P. Horne; J.P. Kelley; and R.L. Taylor.

[These Minutes were prepared by Staff Secretary Pia Webster, using a tape recording of the Special Meeting and an outline provided by Acting Principal Planner William Veno.]